

Penny Berry - Fwd: New 6: Letter to Nevada State Bank

From: Paul Baker <paulbaker@utah.gov>
To: Penny Berry <pennyberry@utah.gov>
Date: 5/18/2012 7:51 AM
Subject: Fwd: New 6: Letter to Nevada State Bank
CC: Peter Brinton <peterbrinton@utah.gov>
Attachments: demand_notice_letter_nsb.pdf; bond and terms.pdf

Penny--

The attached demand notice letter should go in the file for this project. Thanks.

----- Forwarded message -----

From: Cameron Johnson <cameronjohnson@utah.gov>
Date: Thu, May 17, 2012 at 1:24 PM
Subject: New 6: Letter to Nevada State Bank
To: paulbaker@g.utah.gov, John Baza <JOHNBAZA@utah.gov>
Cc: Steve Alder <STEVEALDER@utah.gov>

Good afternoon Paul and John,

Attached is a copy of a letter I am mailing today to Brian Solomon of the Nevada State Bank (NSB). NSB was the last entity to hold the reclamation surety for the New 6 in Millard County. They cashed the CD to the operator without your permission in 2011 and this letter informs them of your right to the money for reclamation work. We are obligated to give them notice of our intention to pursue a Board order forfeiting the bond.

If there are any questions, I am around this afternoon.

Cameron

--

Paul Baker
Minerals Program Manager
Utah Division of Oil, Gas and Mining
801-538-5261
M-W, F

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL



MARK L. SHURTLEFF
ATTORNEY GENERAL

JOHN E. SWALLOW
Chief Deputy

Protecting Utah • Protecting You
May 20, 2012

KIRK TORGENSEN
Chief Deputy

Mr. Brian Solomon
Nevada State Bank
400 N Green Valley Pkwy
Henderson, NV 89074

Subject: Alan Newman dba Grandstone, Certificate of Deposit # 3887

Dear Mr. Solomon,

I am writing to seek a payment from your bank for \$12,000, which was the amount held in Certificate of Deposit ("CD") # 3887. We have been advised that the amount held in the CD was paid to Mr. Alan Newman ("Mr. Newman") on October 21, 2011 in Tonopah, Nevada. The withdrawal by Mr. Newman was not authorized by the Utah Division of Oil, Gas and Mining ("Division") as required by the original terms and restrictions of the CD. While the CD was originally created by the Great Basin Bank of Nevada (Great Basin) on October 6, 2006, Nevada State Bank assumed control of it on April 17, 2009. Your bank further assumed the original terms and conditions of the CD at that time.

Those terms clearly provide that the bank, then Great Basin, "shall hold the moneys represented by the CD's as a custodian and agent for the Division and shall be liable to the Division for any and all losses to the principal amount of the aforesaid CD caused in any manner whatsoever during the terms of this agreement." (See attached letter dated October 10, 2006) The letter also explains that "the CD may only be redeemed (i.e., called on demand), pursuant to the written instruction or demand of [the] Director of the Utah Division of Oil, Gas & Mining." Nevada State Bank assumed these terms and conditions when it took over the CD from Great Basin in 2009. Subsequent to your assumption of control over those funds, the Division communicated with Nevada State Bank regarding optional ways to use the funds held in the CD to complete the reclamation required at the mine, including allowing Nevada State Bank to contract for reclamation and obtain return of certain equipment at a nearby mining site. These discussions did not conclude with any agreement or in a release of the obligation to the State of Utah. Nevada State Bank failed to adhere to its obligations when it paid the CD funds to Mr. Newman in 2011 without providing notice or acquiring the consent of the Division. This failure was in direct contradiction to the terms and conditions of the CD and requires Nevada State Bank to pay the original amount of the CD to the Division.

As required by Utah statute, the Division is now advising your bank of its intention to file a Request for Agency Action seeking the forfeiture of the CD and authorization to begin reclamation from the Utah Board of Oil, Gas and Mining at the upcoming July 25, 2012 hearing.

After that hearing, the Division will pursue payment of the CD from Nevada State Bank. Alternatively, if the Nevada State Bank decides to send the money to the Division before the July hearing, the Division will hold the money until it receives the order from the Board. If your Bank decides to send the money before the July hearing, it will not be required to respond to the Division's Request for Agency Action.

The Division looks forward to resolving this matter quickly and receiving the \$12,000 to begin the required reclamation work in Utah associated with the New-6 quarry. If you have any further questions or concerns, you may contact me at either 801.538.7227 or via email, cameronjohnson@utah.gov.

Sincerely,



Cameron Johnson
Assistant Attorney General

cc:

Stan Ivie, Regional Director, FDIC, San Francisco Regional Office
Federal Deposit Insurance Corporation
25 Jessie Street at Ecker Square, Suite 2300
San Francisco, California 94105-2780

Alan Newman, Operator of New-6 Quarry
P.O. Box 150276
Ely, NV 89301

John Baza, Director, Utah Division of Oil, Gas and Mining [via email]

Paul Baker, Minerals Program Manager, Utah Division of Oil, Gas and Mining [via email]